IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 3420 (MS) OF 2001

(OLD NO. 18998 OF 1989)

Sri Mohammad Yaseen,
Aged about 30 years,
S/o Sri Shaukat Ali,
R/o Khari Bazar Ranikhet,
District-Almora. .....Petitioner.

Versus

1. District Judge, Almora.
2. Sri Hansa Dutt Bhagat, S/o Shri Trilochan Bhagat, Shop No. 124 Sadar Bazar, Ranikhet, District-Almora.

.....Respondents.

Dated: 23.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Ganesh Kandpal & S.K. Mandal, Advocate for the petitioner, Sri Sharad Sharma, assisted by Sri Anil Singh Rana, Advocate for the respondent no. 2 and Standing Counsel for the respondent no.1.

2. By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 5th July, 1989 passed by the respondent no. 1 (Annexure No. 1 to the writ petition).

3. Briefly stated, according to the case of the petitioner, he is the landlord of the shop No. 124 situate at Sadar Bazar, Ranikhet, District Almora in which respondent no. 2 is the tenant. The said shop was purchased by the

petitioner from one Smt. Durga Devi, W/o late Sri Tara Dutt Tewari through a registered sale deed dated 20.12.1984 inclusive of assets and liabilities of the shop and it was brought to the notice of the petitioner that Sri Hansa Datt/respondent no. 2 was in arrears of rent for the last six years at the time of the sale deed and through the sale deed Smt. Durga Devi also authorized the petitioner to realize the rent from Shri Hansa Dutta, and the rent of the last six years was also included in the said arrears of rent from the respondent no 2, but he paid only Rs. 350/- through money order, which was adjusted by the petitioner as arrears of rent for the period of 20.12.1978 to 20.12.1979 and the respondent no. 2 remained in arrears of rent from 20.12.1979 to 20.12.1985, which was not paid by the respondent no. 2 despite repeated demands.

4. The petitioner sent a notice dated 10.02.1986 to the respondent no. 2 demanding payment of arrears of rent due within one month from the date of receipt of the notice and terminated the tenancy from the said date.

5. Inspite of the said notice, the respondent no. 2 did not pay the arrears of rent. Thereafter, the petitioner filed a suit for the recovery of arrears of rent and for eviction of the respondent no. 2 from the shop no. 124 Sadar Bazar Ranikhet, District Almora. Against the same, the respondent no. 2 filed his written statement denying the averments made in the suit.

6. The suit was decreed. However, a revision was preferred by the tenant, which was allowed.

6. It has been held by the revisional Court that no amount is due from 01.04.1984 to 19.12.1984 and hence the revision was allowed.

7. In view of the above, I do not find any illegality in the aforesaid order so as to interfere under Article 226/227 of the Constitution of India. However, it will be open for the petitioner to initiate fresh proceedings. In case the petitioner files a suit for eviction, the same shall be expedited and disposed of expeditiously.

8. Subject to above, writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

23.08.2006
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